

BEFORE THE NATIONAL LABOR RELATIONS BOARD
UNITED STATES OF AMERICA
REGION 19

The Children's Museum, Seattle¹

Employer

and

Case 19-RC-14504

International Alliance of Theatrical and
Stage Technicians and Projectionists,
Local # 15, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record in this proceeding, the undersigned makes the following findings and conclusions.²

SUMMARY

The Employer is a non-profit corporation, which operates a children's museum in Seattle, Washington. The Petitioner seeks to represent two individuals employed in the Employer's Exhibits Department. One of the two individuals holds the position of Exhibits Coordinator, which the Employer contends is a managerial and/or supervisory position that should be excluded from the unit. The Employer further contends that excluding the Exhibit Coordinator reduces the unit to a one-person unit, which would warrant dismissal of the petition. Petitioner maintains that the Exhibits Coordinator is neither a manager nor a supervisor but is an employee who should be properly included in the unit.

Based on the record evidence and arguments presented by the parties, I conclude that the Exhibits Coordinator is neither a supervisor within the meaning of Section 2(11) of the Act nor is he a manager as defined by Board law. Accordingly, I shall direct an election in the unit sought by Petitioner.

Below, I have provided a section setting forth the record evidence relating to background information about the Employer's operations and relating to the Exhibits Coordinator's duties

¹ The Employer's name appears as amended at the hearing.

² The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. The labor organization involved claims to represent certain employees of the Employer. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

and responsibilities. Following the Evidence section is my analysis of the applicable legal standards in this matter, and a section directing an election in this case.

1. EVIDENCE

A.) Background Information on the Employer's Operations

As outlined above, the Employer (also called the Museum) operates a children's museum, which focuses on the presentation of inter-active exhibits for young children. The Museum maintains a number of permanent exhibits as well as some temporary and traveling exhibits. The Employer employs approximately 43 employees, 17 of whom are full time, in five major departments: Outreach Programs, Finance and Administration, Operations, External Affairs, and Exhibits, the last of which is the only department at issue here. The Exhibits Department is responsible for the construction (when necessary), erection, and maintenance of the exhibits. Due in part to the interactive nature of the exhibits, they often require regular ongoing maintenance.

The Employer's Director of Exhibits normally oversees the Exhibits Department. However, that position has been vacant since approximately July 2003 when Charlotte Beall resigned from that position. Following her resignation, Beall served as a consultant to the Employer until the end of January 2004 on a traveling exhibit, which was on display at the Museum. The record is clear that the Employer intends to fill the Director of Exhibits vacancy in the near future.

When Beall occupied the Director of Exhibits, she oversaw the work of the two individuals, Clark Sandford and Doug Paasch who are currently employed in the Exhibits Department and who are covered by the petition. Sandford occupies the position of Exhibits Coordinator and Paasch occupies the position of Exhibits Technician. Paasch initially reports to Sandford who reported to Beall when she was the Director of Exhibits. Beall, in turn, reports to the Employer's Executive Director, K.C. Gauldine. Following Beall's resignation, Sandford reports directly to Gauldine.³

Sandford is a salaried employee while Paasch is paid an hourly rate of \$15.50 per hour. The difference between the pay of Sandford and Paasch is about \$2,300 on an annual basis and is exclusive of any overtime pay which Paasch may receive. Sanford attends a weekly meeting with the executive director but does not attend a bi-weekly meeting of senior staff. All employees, from the executive director on down, receive the same benefit package.

B.) Exhibit Coordinator Clark Sandford's Duties and Responsibilities

Every week, Sandford conducts a walk through the Museum to note what repairs and maintenance is required. Sometimes Paasch participates in the walk through and approximately 40% of the time Paasch conducts the walk through by himself. Other Museum managers and employees also bring repair and maintenance issues to the attention of the Exhibits Department.

Sandford and Paasch collaboratively decide the priority of the work to be done in a given week. In this regard, both focus on safety, which is the number one concern. Work is then divided up between Sandford and Paasch. Sandford has been employed by the Museum for

³ The parties stipulated to the exclude the positions of Executive Director and Director of Exhibits on the basis that the persons occupying those respective positions possess and exercise indicia of supervisory status as that term is defined in Section 2(11) of the Act. Based on this stipulation and the record evidence, I shall exclude the Executive Director and Director of Exhibits positions from the unit. The parties further stipulated that, assuming the Exhibits Coordinator is neither a supervisor nor a manager, the appropriate unit in this case is the one sought by Petitioner.

11 years while Paasch has been employed for 8 years. Sanford has strong carpentry skills and Paasch has more skills and/or experience in electronics, computers, and lighting. Based on these skills and experience, it generally becomes readily apparent how work will be divided between Sanford and Paasch. Thus, there is no formal assignment of work. Although it rarely occurs, a need may arise for Sanford to prioritize work and from there, Sanford and Paasch continue to collaboratively agree what tasks each will perform.

In light of Paasch's computer skills, other Museum personnel often bypass Sanford and request Paasch to perform computer related work. In these instances, Paasch, alone, decides on the priority or the timing of his response to the requests for computer assistance in relation to completing his Exhibits Department work.

Paasch and Sanford also collaborate on their schedules and vacations. It does not appear from the record that there is a formal system for assignment of hours or days off, even when Beall was in place. However, both Paasch and Sanford are required to fill out forms for vacation approvals and while the work hours for Paasch and Sanford vary somewhat, both attempt to cover Museum hours.⁴ Due to their respective personal time commitments, Sanford and Paasch collaborate with each other (and with Beall when she was the Exhibits Director) in an effort to accommodate and cover for each other at work and when their respective outside commitments raise conflicts.

However, the record reveals that Sanford does sign off on Paasch's timecards every two weeks. Sanford apparently reviews those cards prior to signing off on them, after which he passes them on to the Employer's Director of Finance and Administration. The record does not reveal whether Sanford has the authority to reject, adjust and/or to correct Paasch's timecards, if and when a dispute occurs, or whether Sanford is merely performing a reportorial function of verifying Paasch's actual hours of work.

With respect to overtime, Paasch relays his request for such to Sanford who, in turn, had passed it onto Beall for approval. With Beall's resignation, Sanford now passes Paasch's overtime requests to Gaudine. Due to the Museum's lack of adequate funding, Gaudine rarely grants overtime with the exception for emergency situations. The parties did not elaborate on the nature and extent of these emergency situations. However, the record does reveal that Paasch occasionally has bypassed Sanford and directly requested overtime from Beall.

The Employer asserts that Sanford has the power to hire, discharge and discipline employees. However, Sanford testified that he was not aware of those responsibilities, nor has he exercised any of those tasks in the eleven years he has been employed.

With respect to hiring, the record reveals that Sanford has only been involved in one hiring in his 11 years. That hiring, which took place about 8 years ago, concerned Paasch, who along with other applicants, was interviewed by Beall and Sanford. Following these interviews, Beall and Sanford agreed that Paasch was the best candidate for the job and, thus, he was hired. Beall also hired a part-time employee who worked a portion of her time in the Exhibits Department and time in other departments. However, Sanford did not participate in the hiring process surrounding this part-time employee.⁵ Moreover, this part-time employee did not report to Sanford during her work in the Exhibits Department.

⁴ It appears that Sanford and Paasch have other work outside their employment with the Museum and that this outside work factors into the hours they work at the Museum.

⁵ It appears that the part-time employee, Erin Bartram, is no longer regularly employed by the Museum, although she continues to occasionally work temporary or special project jobs for the Employer. In any event, the parties do not dispute that she should be excluded from the unit. Based on the record as a whole, I shall exclude Bartram from the unit.

Regarding discipline and discharge, the record does not show any terminations or disciplinary actions involving Sanford during his employment by the Museum. In terms of other indicia of supervisory authority, Sanford has recommended a wage increase for Paasch from time to time but any increases are driven by the overall budget with the result that Sanford's recommendations in this regard are often rejected.

A significant part of the record in this case revolves around Sanford's duties and responsibilities related to the Museum's need for hiring temporary employees or for contracting with independent contractors to perform work that the Exhibits Department (Sanford and Paasch) is unable to perform for various reasons. This type of need has been ongoing for a number of years. When such needs arise, the Employer often hires temporary employees but has also occasionally utilized independent contractors.⁶ Over the years, Beall and Sanford developed a list of individuals who were available to perform painting, carpentry and other tasks as needed by the Museum. The record further shows that Beall and Sanford would collaborate on determining the need for additional work and on the decision as to the individuals from whom to solicit bids. After the contact list is created, Sanford is left with the duty of contacting individuals and inquiring as to their availability. After determining availability, Beall and Sanford, again in a collaborative fashion, selected from the list of available individuals. Thereafter, Sanford often presented the selected individual with a "services/event agreement form" which specifies the compensation and tasks to be performed. Sanford would often complete and sign these forms on behalf of the Employer but this task has also been performed by Paasch and by one of the Employer's human resources employees. Beyond the foregoing, the record does not reveal whether Beall possessed and/or exercised the authority to overrule any input provided by Sanford concerning hiring temporary employees or retaining contractors. There are no details regarding how rates of pay and other material terms were determined for the agreements signed by the temporary employees or contractors. Regardless, there is no disputing that Beall was heavily involved in this process from start to finish.

Since Beall's resignation, Sanford has been involved in only one situation related to the hiring of a temporary employee and has had no involvement in retaining independent contractors. The one hiring situation occurred in 2004 when Sanford determined there was a need for a painter and approached Gauldine with the name of a painter, whom the Museum had used in the past, and with a bid of \$350. However, Gauldine rejected the bid as too expensive and directed Sanford to go back to the painter and request that the job be done for \$250. The painter subsequently accepted Gauldine's counter-offer. Sanford completed the arrangements for the painter to perform the work over a two-day period. Most of these temporary employees only work for a day or two, with the maximum duration being a week.

In the past twelve months, Sanford was involved in approximately seven instances of hiring temporary employees (not including the painter discussed above). The record is not specific as to the details of the hiring process for these individuals except for the recent temporary painter described above.

With respect to Sanford's evaluation responsibilities, the record reveals that up until the past year, employees would self evaluate themselves. Sanford usually commented on Paasch's self-evaluations. However, the evaluations appear to have no impact on an individual's terms and conditions. Wage increases and rewards are not based on the evaluations and the record does not show what would occur if Paasch were to receive a negative evaluation or comments from Sanford.

⁶ Apparently, the decision to hire temporaries versus utilizing independent contractors is driven by the Employer's concern over workmen's' compensation issues. The record does not reveal who makes or who is involved in the decision whether to use temporary employees versus independent contractors.

The record also reveals that Sandford has some involvement in the Museum's annual budget process, which entails the various Museum departments submitting budget estimates for the coming year. Eventually, department budgets are submitted to the Board of Trustees for approval. Sandford's role in the budget process is to present an estimate of the needs of the Exhibits Department as it relates to exhibit supplies, the rental of equipment, and the hiring of temporary employees and/or contractors. Sandford does not address other Exhibits Department expenditures such as salaries and wages. In the most recently completed budget process, Sandford testified that his role was limited to requesting estimates from Paasch as it relates to his area of work, considering past expenditures, consulting with Beall, and submitting the figures to part-time employee Bartram who, in turn, apparently created some form of a budget document for submission to Museum officials. The record further reveals that once a budget is set for the Exhibits Department, it must stay within that budget. Sandford does not personally receive a budget and he has relied upon Beall, in the past, and currently upon Gauldine, to keep him in line with the Department's budget.

2.) **ANALYSIS**

The record evidence and the parties raise two issues in this case: 1.) is Sandford a supervisor as that term is defined in Section 2(11) of the Act; and 2.) is Sandford a manager as that term has been defined by Board law? Turning to the first issue, Section 2(11) of the Act defines a supervisor as:

[A]ny individual having authority, in the interest of the Employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

It is well settled that Section 2(11) of the Act is to be read in the disjunctive and that possession of any one of the enumerated indicia establishes supervisory status as long as the performance of the function is not routine or clerical in nature but rather requires a significant degree of independent judgment. *Stephens Produce Co., Inc.* 214 NLRB 131 (1974); *NLRB v. Kentucky River Community Care, Inc.*, 532 U.S. 706 (2001). "A worker is presumed to be a statutory employee and the burden of proving a worker is a supervisor within the meaning of Section 2(11) of the Act falls on the party who would remove the worker from the class of workers protected by the Act." *Hicks Oil & Hickgas, Inc.*, 293 NLRB 84 (1989); *Kentucky River Community Care, supra*. "The Board has a duty to employees to be alert not to construe supervisory status too broadly because the employee who is deemed a supervisor is denied employee rights, which the Act is intended to protect." *Hydro Conduit Corp.*, 254 NLRB 433 (1981).

With regard to the Employer's contentions that Sandford assigns work, the record reveals that for several years Sandford and Paasch have collaboratively arrived at a division of their work based almost exclusively on their respective skills, which are significantly different. This long standing collaborative process has obviated any significant need for the assignment of work and has resulted in both individuals naturally gravitating toward those tasks best suited for their skills. Moreover, Sandford does not direct Paasch in his work because Paasch is normally more skilled than Sandford in those tasks, which Paasch performs at the Museum.

With respect to time card review, the record reveals that Sandford does nothing more than perform the ministerial act of verifying the hours that Paasch has worked. There is no

evidence suggesting what authority, if any, that Sandford has if a dispute arises in this regard. That is, Sandford does not have the authority to adjust the hours on the timecard or to reject the timecard if he disputes Paasch's hours.

The Employer argues that Sandford approves Paasch's time off requests, vacations, and work schedule. However, the record reveals that the working environment in the Exhibit Department for years has been collegial with few formalities. Consequently, Sandford and Paasch routinely collaborate with each other not only as to work tasks but also with respect to work hours, days off, vacations and other related matters. In this environment, Sandford's purported authority over time off, vacations, work schedules, and similar matters does not exist.

Regarding the Employer's contention that Sandford approves overtime and recommends wage increases, the record simply does not support that contention. Rather, higher-level management rarely approves overtime. Additionally, the record clearly reveals that Sandford's recommendations for overtime and wage increases have been routinely rejected on countless occasions due to the Employer's budget situation.

The Employer's argument that Sandford was "heavily involved" in the hiring process surrounding Paasch is not supported by the record. In particular, the record only discloses that Sandford sat in with Beall on interviews, that the two of them agreed that Paasch was the top candidate, and that Paasch was eventually hired. Beyond that, the record is vague and lacking in detail. The Employer further argues that Sandford possesses the authority to hire an employee into Paasch's position should it become vacant. In this same vein, the Employer similarly argues that Sandford possesses the authority to discipline and to discharge Paasch but the exercise of such authority has been unnecessary due to Paasch's long and stable employment with the Employer. However, Sandford testified that he has never hired, discharged and/or disciplined employees in his 11 years with the Employer and that he has never been told he possesses such authority. In view of the above and the record as a whole, I find that Sandford does not possess the authority to hire, discharge and to discipline the exhibit technician.

While the Employer argues that Sandford has the authority to hire temporary employees, the record reveals otherwise. During Beall's tenure as Exhibits Director, Sandford relayed his and/or Paasch's desire to hire someone to perform needed work and their respective candidates to perform such work to Beall. In this regard, Beall and Sandford often drew from a list of former temporary employees, called upon some of those former employees, and offered them work, depending on bid estimates and/or the Museum's budget. Beyond this, the Employer does not flesh out significant details regarding Sandford's role in relation to Beall's well-established and heavy involvement in the hiring of temporary employees.⁷

In the one hiring instance since Beall's resignation, Sandford determined that a need for painting work existed and approached Gauldine with a painter's name and a bid of \$350. While Gauldine agreed with the need for painting, she rejected the painter's bid and asked Sandford to offer the painter \$250 to perform the work. Consequently, Sandford relayed Gauldine's counter-offer to the painter who accepted. Under these circumstances, Gauldine did not follow any purported recommendation by Sandford to hire a painter. Rather, the recommendation was conditionally rejected and/or materially altered by Gauldine's request that Sandford make a

⁷ This analysis with regard to Sandford's authority to hire temporary employees is equally applicable to the Employer's contention that Sandford is a managerial employee because he makes contracts and purchases materials, supplies, and temporary labor. In short, Sandford simply does not have any independent authority or discretion to expend Employer funds without obtaining prior review and approval from the Exhibits Director or the Executive Director.

counter-offer to the painter.⁸ Thus, this hiring situation does not establish that Sanford hired the painter or that he effectively recommended the hiring.

The cases cited by the Employer concerning Sanford's purported hiring authority are inapposite to the circumstances in this case. In *Union Square Theatre Management*, 326 NLRB 70 (1998), the technical directors in question had complete discretion as to whom they could hire for temporary positions and more significantly they could determine the rates of pay for these individuals. Here, Sanford does not independently set the rates of pay and his selection of a temporary employee or independent contractor was clearly subject to the approval of the Director of Exhibits or, while the Director of Exhibits position is vacant, of the Executive Director. The Employer also cites *RB Associates, Inc.*, 324 NLRB 874 (1997) which involved an individual who interviewed applicants and whose recommendations were followed without independent review or investigation by higher-level managers. However, that is not the situation here. In view of the above and the record as a whole, I find that Sanford does not possess the authority to hire or to effectively recommend the same.

In support of its position that Sanford possesses supervisory authority, the Employer points to secondary indicia such as Sanford's salary and his role in evaluations. With respect to Sanford's salary, Paasch's annual wages nearly equal Sanford's annual salary, without taking into consideration possible overtime pay. Regarding evaluations, the record reveals that Sanford's employee evaluations have no meaningful impact on the terms and conditions of Paasch's employment. I further note that Sanford does not attend regular senior management meetings and if I were to find Sanford a supervisor, it would theoretically result in a ratio of one employee to two supervisors (Paasch to Sanford and the Exhibits Director). On the issue of ratios, the Board and Federal courts have held that an unbalanced ratio of employees to alleged supervisors militates against a 2(11) finding. E.g. *Highland Superstores*, 927 F. 2d 918 (6th Cir. 1991) (16 supervisors overseeing 40 unit employees); *Health Care Logistics*, 784 F. 2d 232 (6th Cir. 1986) (three supervisors to eight employees); *Ohio River Co.*, 303 NLRB 696 (1991) (three supervisors to four employees). However, while the ratio of employees to supervisors is significant, it is not necessarily dispositive. *Northcrest Nursing Home*, 313 NLRB 491, 498-99 (1999). Regardless, absent evidence that individuals possess any of the enumerated indicia of supervisory status in Section 2(11), "there is no reason to consider so-called secondary indicia, such as their titles, the employee-supervisor ratio ... or pay differentials between them and others in their departments." *Hausner Hard-Chrome of KY, Inc.*, 326 NLRB 426, 427 (1998).

In light of the above and the record as a whole, I find that the Employer has not met its burden of establishing that Sanford possesses indicia of supervisory authority as that term is defined in Section 2(11) of the Act.

Turning to the issue of Sanford's purported managerial status, the Employer argues that Sanford is a manager within the meaning of *NLRB v. Bell Aerospace Co. Division*, 416 U.S. 267 (1974). Board law defines managers as those who "formulate and effectuate management policies by expressing and making operative the decisions of their employer." *NLRB v. Yeshiva University*, 444 U.S. 672, 682 (1980)(citing *NLRB v. Bell Aerospace Co.*, 416 U.S. 267, 288 (1974))(quoting *Palace Laundry Dry Cleaning Corp.*, 75 NLRB 320, 323, n. 4 (1947)). *Yeshiva* describes managerial employees as "much higher in the managerial structure" than those explicitly mentioned by Congress, which "regarded [them] as so clearly outside the

⁸ While I note that on cross examination by Employer's legal counsel, Sanford often admitted that he hired or recommended the hiring of temporary workers or independent contractors, those admissions were obtained without any significant details. Moreover, such admissions in view of the record evidence as a whole, fails to support a finding that Sanford possessed supervisory or managerial authority with regard to hiring temporary employees or contracting with independent contractors.

Act that no specific exclusionary provision was thought necessary." *Yeshiva University*, supra, 444 U.S. at 682 (quoting *NLRB v. Bell Aerospace Co.*, supra, 416 U.S. at 283).

Here, the Employer contends that Sandford is a manager as he makes contracts; purchases temporary labor, materials, and supplies; develops budgets; serves as a project manager for temporary exhibits; and sets production schedules. With respect to making contracts and purchasing materials, supplies and temporary employees, the record reveals that Sandford simply cannot expend any Employer funds for any purpose without the explicit review and/or prior approval of Employer management. On the issue of developing budgets, the record reveals that Sandford's role in the process was merely to relay certain limited budgetary numbers to upper level management and that his role in this regard was substantively no greater than Paasch's similar role and probably less than the role played by part-time employee Bartram. The Employer further argues in its brief that Sandford is the "project manager for temporary exhibits" and that he "sets production schedules." However, the record reveals that Sandford manages nobody and he does not set production schedules as much as he monitors the progress of work in the Exhibits Department. Indeed, Paasch prioritizes his own work particularly as it relates to computer tasks.

In view of the above and the record as a whole, I find that Sandford is not a manager as defined by Board law. Accordingly, I shall include him in the unit. Further, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time Exhibits Department employees, including the Exhibits Coordinator and Exhibits Technician, employed by the Employer at its Seattle, Washington facility; excluding all other employees, office clerical employees, guards and supervisors as defined by the Act.

There are two employees in the appropriate unit

3.) DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by International Alliance of Theatrical and Stage Technicians and Projectionists, Local # 15, AFL-CIO.

A.) List of Voters

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the alphabetized full names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region 19 within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. The Region shall, in turn, make the list available to all parties to the election.

In order to be timely filed, such list must be received in the Regional Office, 915 Second Avenue, 29th Floor, Seattle, Washington 98174, on or before May 5, 2004. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission to (206) 220-6305. Since the list is to be made available to all parties to the election, please furnish a total of 4 copies, unless the list is submitted by facsimile, in which case only one copy need be submitted.

B.) Notice of Posting Obligations

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of three working days prior to the date of election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

C.) Right to Request Review

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by May 12, 2004.

DATED at Seattle, Washington, this 28th day of April 2004.

/s/ Richard L. Ahearn
Richard Ahearn, Regional Director
National Labor Relations Board, Region 19
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